

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICHARD YOUNG,)	
)	
Plaintiff,)	
)	
v.)	Civil Action 03-551
)	
JEFFREY BEARD, et al.)	
)	
)	
Defendants.)	

MEMORANDUM ORDER

CONTI, District Judge

Plaintiff Richard Young (“plaintiff”), an inmate at State Correctional Institution at Fayette (“SCI-Fayette”), filed a civil rights action pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983 on April 21, 2003 against twenty defendants. This court granted a motion to dismiss or summary judgment in favor of eighteen of the defendants on January 13, 2005. (Doc. No. 130). Plaintiff attempted to appeal the entry of summary judgment to the United States Court of Appeals for the Third Circuit on January 24, 2005. (Doc. No. 132). The United States Court of Appeals for the Third Circuit dismissed the appeal for lack of appellate jurisdiction on June 3, 2005. (Doc. No. 134).

The two remaining defendants in this action, Dr. Kern (“Kern”) and Dr. Koolie (“Koolie”) filed motions to dismiss, respectively, on June 10, 2005 (Doc. No. 136) and November 1, 2005 (Doc. No. 144). Plaintiff responded to Kern’s motion to dismiss on June 29, 2005 (Doc. No. 139) and Koolie’s motion to dismiss on November 22, 2005. (Doc. No. 153). Both motions are still pending.

On August 31, 2005, plaintiff filed a motion (Doc. No. 141) requesting this court to order the magistrate judge to issue a report and recommendation on Kern's pending motion to dismiss. This court, in a memorandum order dated November 4, 2005, denied plaintiff's motion. (Doc No. 151).

Pending before the court is plaintiff's motion, filed on November 22, 2005, objecting to this court's order of November 3, 2005, denying his request that this court issue an order compelling the magistrate judge to issue a report and recommendation regarding Kern's motion to dismiss. The court will treat plaintiff's motion as a motion for reconsideration of the court's November 3, 2005, order.

The court will deny plaintiff's motion for reconsideration (Doc. No. 152) because there has been no undue delay in issuance of the magistrate's report and recommendations. Due to plaintiff's untimely appeal to the United States Court of Appeals for the Third Circuit, the magistrate judge denied Kern's and Koolie's motions to dismiss *without prejudice* and allowed Kern and Koolie the option to re-file their motions after the United States Court of Appeals for the Third Circuit has issued its ruling on plaintiff's appeal.

The Court of Appeals, as noted above, dismissed plaintiff's appeal for lack of appellate jurisdiction on June 3, 2005. Both motions to dismiss have now been filed, briefed, and responded to by plaintiff.

Conclusion

AND NOW, this **5th day of January 2005**, upon consideration of plaintiff's motion, **IT IS ORDERED** that plaintiff's motion for reconsideration (Doc. No. 152) is **DENIED**.

By the court:

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc: Richard Young
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